

2.1 About this Part

This part provides an overview of the CLI scheme by describing:

- Obligations of air carriers
- What a carrier is
- What a passenger is
- What type of insurance is required
- Obligations of carriers with multiple insurers
- Obligations of foreign carriers
- Carrier's obligation to renew the Certificate of Compliance (CoC) on expiry
- CASA's power to revoke a CoC
- Penalties for carriers without a CoC
- Responsibilities of a carrier
- How to apply to CASA for a CoC
- Where CLI information can be obtained.

The primary purpose of this overview is to outline the CLI scheme for those people who are not conversant with CLI laws. The formal procedures begin at Part 3.

2.2 Obligations of Air Carriers

Each carrier who carries passengers for hire or reward to or from Australia, or within Australia, is required to have passenger liability insurance which ensures that compensation will be paid in respect of death or personal injury suffered by passengers on the carrier's aircraft.

As well as the required passenger liability insurance, carriers are required to hold a current CoC from CASA to be able to carry passengers for hire or reward.

The Civil Aviation Safety Authority (CASA) is responsible for administering and enforcing the Commonwealth and State compulsory insurance schemes—refer to Part IVA of the *Civil Aviation (Carriers' Liability) Act 1959* (Cth), *Civil Aviation (Carriers' Liability) Regulations* and complementary State legislation (together referred to as 'the legislation').

2.3 What Is a Carrier?

Defining a carrier is not a simple matter given the complexities of the legislation and that the obligations of foreign carriers under Australian laws may vary depending on what international treaties a carrier's home country has endorsed.

For practical purposes, CLI staff should assume that a carrier has obligations under the Act if the carrier:

1. Holds an Australian Air Operator's Certificate (AOC) or other form of operating approval authorising:
 - passenger charter; or
 - regular public transport; or
 - international air transport operations; or
 - cargo charter/airline operations in cases where security guards, animal veterinarians or other non-crew members are carried on aircraft.
2. Is a foreign person/carrier who offers to transport passengers under contract to/from Australia on the carrier's own aircraft, or aircraft operated by another carrier.
3. Is a person providing an aircraft and crew to another carrier engaged in operations to/from Australia, under a wet lease agreement.

An expanded definition of carrier is given in Part 3 of this manual, particularly section 3.5, Definition and Obligation of a Carrier under the Act.

2.4 What Is a Passenger?

The CLI legislation does not define the meaning of passenger.

In the absence of a legal definition, CASA has formed the view that a passenger is any person who is likely to fit a dictionary definition of the word.

For practical purposes, CASA has decided that a passenger is any person who is carried, or to be carried, by a carrier other than a member of the aircraft operating crew who has bona-fide duties in relation to the flying or safety of the aircraft.

The following list, while not exhaustive, gives some examples of passengers:

- Any ticketed passengers
- A person such as a relative of a crew member who is receiving a free ride
- Any person carried at the request of a freight consignor
- An employee of a carrier who is not bona fide acting in the course of his or her employment with the carrier
- A security guard who accompanies a freight consignment
- A veterinarian who accompanies animal freight.

The following persons are **not** passengers:

- Active pilots
- Active cabin crew
- Active flight navigators
- Any person specifically **employed/contracted by the carrier** to perform either duties related to the maintenance or safety of the operating aircraft or the handling or unloading of cargo/freight.

Notwithstanding that an employee of the carrier may travel on an aircraft as a passenger or a crew member, the legislation provides that a person who is an employee of the carrier travelling in the course of his/her duties as an employee **may be excluded** from an insurance policy. Refer to section [4.4.2](#).

2.5 What Type of Insurance Is Required?

The type of insurance required is prescribed in the legislation. Refer to Part 3 Legislation and Delegations.

Among other requirements, it is essential that an insurance policy grants the carrier a right of indemnity in respect of personal injury liability:

- for an amount not less than \$500,000 (for domestic carriers) or 260,000 Special Drawing Rights (for international carriers) per passenger; and
- which cannot be voided by an insurer in the event that the carrier fails to comply with safety requirements or becomes insolvent.

A carrier is expected to hold insurance covering all of the types/models of aircraft by which the carrier is authorised to operate regular public transport or charter operations under its AOC.

It is important to note that an insurance policy will only constitute an 'acceptable contract of insurance' for the purposes of the legislation if CASA has issued a CoC to a carrier in relation to the policy.

2.6 Multiple Insurers

If a carrier has a number of policies with different insurers covering the types/models of aircraft on an AOC, copies of insurance declarations signed by each insurer or broker together with a single application form completed by the carrier should be submitted to CASA.

It is essential that the insurance declarations together give complete coverage for all passenger injury risks for the full aircraft fleet.

2.7 Obligations of Foreign Carriers

A carrier that has foreign nationality is required to hold a CoC if the carrier:

- holds a current AOC or other operating approval which authorises the carriage of passengers for hire or reward to, from or within Australia; or
- offers to transport passengers to/from Australia on its aircraft or aircraft operated by another carrier on its behalf (includes code-share and similar joint venture operations).

Also, a carrier may be required to hold a CoC if the carrier:

- physically transports passengers by air to/from Australia on behalf of another carrier, under a wet lease or other commercial arrangement.

Note: In this situation the carrier may, or may not, have an obligation to hold a CoC depending on which international aviation treaties the carrier's home nation is a party to. Refer to section to [3.6](#), The Effect of International Treaties on International Carriers.

Also refer to the table in [Part E. Signatories to International Treaties and Conventions](#) that identifies signatories to relevant treaties.

In the circumstances described above, foreign carriers have the same obligations and responsibilities as Australian carriers, as described throughout this manual.

Carriers who conduct cargo/freight operations to/from Australia may also be required to hold a CoC. Refer to section [2.4](#), What Is a Passenger?.

2.8 Expiry of Certificates

Certificates of Compliance issued by CASA will lapse on the date of expiry printed on the certificate unless the certificate is revoked by CASA before this date.

Carriers must ensure that they receive a new CoC before their current certificate expires. Carriers are asked to submit applications for new certificates to CASA at least three business days before a current certificate expires.

Although CASA sends reminder letters to carriers, it is important to emphasise that CASA has no obligation to remind carriers about the need to renew their insurance cover. Carriers should not rely on CASA reminders when they need to renew a CoC.

2.9 Power to Revoke a Certificate

CASA may revoke a CoC issued to a carrier if, for any reason, the carrier's existing insurance arrangements no longer satisfy the legislative requirements. This situation could arise when:

- an insurance policy, which formed the basis of a previous decision by CASA to issue a certificate, lapses, is cancelled or varied by an insurer; or
- new types or models of aircraft are added to an AOC and the insurance in place does not cover these types/models; or
- there is a change in the person(s) or company(ies) holding an AOC and a new AOC is issued; or
- CASA has found that a policy otherwise does not meet the prescribed requirements of the legislation.

2.10 Penalties

A carrier intentionally carrying passengers for hire or reward without a CoC issued by CASA will commit a criminal offence. A carrier convicted of an offence may face fines or imprisonment.

The legislation provides that CASA may apply to a court for an injunction to prevent a carrier from conducting operations that would breach the legislation.

An alternative, and often preferred, course of action to prevent a carrier from carrying passengers in breach of the Act is to suspend the passenger charter/RPT authorisation contained on the carrier's AOC.

The requirement for a carrier to have acceptable insurance is reinforced by section 28BI of the *Civil Aviation Act 1988*. In addition, compliance with this requirement is considered by CASA to be relevant to a carrier's 'care and diligence' responsibilities under section 28BE of the *Civil Aviation Act 1988*. CASA may suspend or cancel a carrier's charter/RPT approval where section 28BI or 28BE is breached.

The procedures for suspending an authorisation on a carrier's AOC are contained in [Part 7](#). Compliance Monitoring (Surveillance) and Enforcement.

2.11 Responsibilities of a Carrier

A carrier is required to apply to CASA for a CoC in the following circumstances:

- when he/she is issued with an Australian AOC and proposes being a carrier;
- when he/she applies to CASA to add new types/models of aircraft to, or to vary the authorisations of, an AOC;
- when there is a change to the particulars of the person(s) or company(ies) holding an AOC;
- each time the carrier renews or varies its insurance cover.

At every opportunity, CASA staff should emphasise that carriers are solely responsible for arranging insurance that meets the requirements of the scheme.

2.12 How to Apply to CASA for a Certificate of Compliance

Carriers may apply to CASA for a CoC by:

1. Obtaining from an insurer or broker an insurance declaration stating that the carrier has insurance that complies with the requirements of the legislation.
2. Sending the insurance declaration(s), together with a completed [Compulsory Passenger Liability Insurance Certificate of Compliance Application \(form 829\)](#), to CASA by facsimile or mail.

If CASA is satisfied that the requirements of the legislation have been met, the carrier will be issued with a CoC that is valid for the duration of the insurance cover. If multiple insurance policies are involved, the CoC shall be limited to the period where all policies are in force.

2.13 CLI Information Available to Carriers

Carriers can obtain further information on:

- CASA website: www.casa.gov.au
- Telephone CASA toll free on 131 757.

Carriers' Liability Insurance Compliance Procedures Manual

2. Overview of the Carriers' Liability Insurance Scheme

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